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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,127	09/10/2003	MICHAEL LUBELL	1082.001	2126
36790	7590	09/26/2007		
TILLMAN WRIGHT, PLLC			EXAMINER	
PO BOX 471581			RANGREJ, SHEETAL	
CHARLOTTE, NC 28247			ART UNIT	PAPER NUMBER
			3626	
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			09/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/605,127

Applicant(s)

LUBELL ET AL.

Examiner

Sheetal R. Rangrej

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07/18/2007</u> | 6) <input type="checkbox"/> Other: _____ |

Prosecution History Summary

- Claims 1-7 are canceled.
- Claims 8-27 are new.
- Claims 8-27 are pending.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 12 (para. 19; 21; 29); 13 (para. 19); they include the following reference character(s) not mentioned in the description: 15 (figure 3). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8-11, 13-21, and 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Honda et al. (U.S. Patent No. 6,021,393).

4. As per claim 8, Honda teaches a portable, hand carried apparatus comprising a combination of hardware and software sufficient to record, update, and access a person's medical history using an electronic device having a processor that is capable of accessing the apparatus without the need for special software, and without the need for access to a website or to a database of medical records, that is external to the apparatus (**Honda: abstract**), the apparatus comprising:

(a) machine-readable memory (**Honda: figure 7A & 7B**) and a USB connector connectible to a USB port of an electronic device for access to the machine-readable memory of the apparatus by the electronic device (**Honda: col. 5, 21-40**). The examiner interprets I/O interfaces to include a USB port and the optical card read/write device to have a USB connector connectible to a USB port;

(b) machine-executable instructions contained in the machine-readable memory and constituting a program executable by the electronic device for performing a method comprising the steps of,

(i) storing medical records in a secure database in the machine-readable memory of the portable, hand carried apparatus (**Honda: col. 1, 66 to col. 2, 4**),

(ii) updating the medical records in the secure database in the machine-readable memory of the portable, hand carried apparatus (**Honda: col. 2, 38-48**), and

(iii) providing access to the medical records in the secure database in the machine-readable memory of the portable, hand carried apparatus (**Honda: col. 3, 47-58**).

5. As per claim 9, the apparatus of claim 8 is as described. Honda further teaches wherein the program stores (**Honda: col. 1, 66 to col. 2, 4**), updates (**Honda: col. 2, 38-48**), and provides access to medical records (**Honda: col. 3, 47-58**) only for a single individual (**Honda: col. 1, 13-16**).

6. As per claim 10, the apparatus of claim 8 is as described. Honda further teaches further comprising data contained in the machine-readable memory (**Honda: figure 7A-7B**) and constituting the secure database of medical records (**Honda: col. 2, 38-47**), which the program stores (**Honda: col. 1, 66 to col. 2, 4**) and updates (**Honda: col. 2, 38-48**), and to which the program provide access (**Honda: col. 3, 47-58**).

7. As per claim 11, the apparatus of claim 10 is as described. Honda further teaches wherein the secure database is encrypted (**Honda: col. 2, 48-57**).

8. As per claim 13, the apparatus of claim 8 is as described. Honda further teaches wherein said step (i) of storing medical records comprises inputting medical information into the program (**Honda: col. 4, 40-48; col. 4, 53-61**).

9. As per claim 14, the apparatus of claim 8 is as described. Honda further teaches wherein said step (i) of storing medical records comprises inputting medical information into the program by scanning, keying, or downloading (**Honda: col. 4, 40-48; col. 4, 53-61**).

10. As per claim 15, the apparatus of claim 8 is as described. Honda further teaches wherein said step (i) of storing medical records comprises importing medical information into the program from various file formats (**Honda: col. 5, 21-40; col. 5, 52-54; figure 5**).

11. As per claim 16, the apparatus of claim 8 is as described. Honda further teaches wherein said step (ii) of updating medical records comprises appending medical information to a medical

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record without deleting any medical information existing in the medical record (**Honda: col. 5, 21-40; col. 5, 52-54; figure 5**).

12. As per claim 17, the apparatus of claim 8 is as described. Honda further teaches wherein the program does not provide the functionality of deleting medical information in the secure database (**Honda: col. 8, 40-50**).

13. As per claim 18, the apparatus of claim 8 is as described. Honda further teaches wherein the program does not provide the functionality of deleting a medical record from the secure database (**Honda: col. 8, 40-50**).

14. As per claim 19, the apparatus of claim 8 is as described. Honda further teaches wherein the electronic device comprises a PC, and wherein said step (iii) of providing access comprises outputting a medical record from the secure database to the PC (**Honda: col. 7, 64 to col. 8, 6**).

15. As per claim 20, the apparatus of claim 8 is as described. Honda further teaches wherein said step (iii) of providing access comprises printing (**Honda: claim 8**) and displaying medical information (**Honda: col. 7, 64 to col. 8, 6**) from one or more medical records in the secure database. The examiner interprets that providing the printer is the same as providing access to printing a medical record.

16. As per claim 21, the apparatus of claim 8 is as described. Honda further teaches wherein, the method performed by the program further comprises the step of displaying a person's medical history when the USB connector is connected to a USB port of the electronic device (**Honda: col. 5, 21-40**).

17. For claims 24 and 26, please see the citations of claim 8.

18. As per claim 25, the device of claim 24 is as described. Honda further teaches wherein the memory device comprises a flash memory card (**Honda: figure 7A & 7B**).

19. For claim 27, please see citations of claim 25.

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 12 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honda et al. (U.S. Patent No. 6,021,393) in view of Eberhardt (U.S. Patent No. 5,832,488).

22. As per claim 12, the apparatus of claim 10 is as described. Honda further teaches wherein the secure database includes information pertinent to the treatment of a person, comprising:

(a) personal information including name, address, phone, and emergency contact information (**Honda: figure 3, C**);

(b) emergency medical information including medical alerts, blood type, allergies (**Honda: col. 6, 18-21**)

(c) current medical information including primary physician contact, medical conditions, medications, and treatments (**Honda: col. 6, 12-14; col. 6, 16-18**);

(d) historical medical information including a log of medical office visits, physicians, images from medical scans, a log of vital statistics, immunizations, and surgeries (**Honda: col. 6, 20-26**).

Honda does not teach wherein the secure database includes information pertinent to the treatment of a person, comprising: (e) insurance information including referral letters.

Eberhardt teaches wherein the secure database includes information pertinent to the treatment of a person, comprising: (e) insurance information including referral letters
(Eberhardt: claim 4).

One of ordinary skill in the art at the time the invention was made would have found it obvious to combine the teachings of Honda with Eberhardt with the motivation that the computer system makes it possible for an individual's medical history to be "read" from the card and displayed on the computer **(Eberhardt: col. 1, 27-34).**

23. As per claim 22, the apparatus of claim 8 is as described. Honda does not teach further teaches wherein the program further performs the steps of dating and time stamping added medical information and the identification of the party adding the medical information.

Eberhardt teaches further teaches wherein the program further performs the steps of dating and time stamping added medical information and the identification of the party adding the medical information **(Eberhardt: col. 10, 52-62).**

The motivation to combine the teachings is the same as claim 12.

24. As per claim 23, the apparatus of claim 22 is as described. Honda does not teach wherein the program further performs the steps of generating a report of medical information added to the secure database, the report including the party that added the medical information and the date and time that such medical information was added to the secure database.

Eberhardt teaches wherein the program further performs the steps of generating a report of medical information added to the secure database, the report including the party that added the

medical information and the date and time that such medical information was added to the secure database (**Eberhardt: col. 10, 52-62**).

The motivation to combine the teachings is the same as claim 12.

Conclusion

25. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheetal R. Rangrej whose telephone number is 571-270-1368. The examiner can normally be reached on M-F 8:30-5:30.

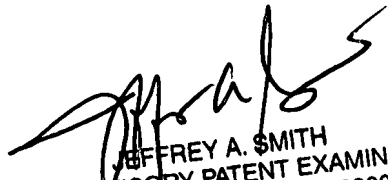
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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9/19/07


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